

MINUTES
SOLID AND HAZARDOUS WASTE CONTROL BOARD MEETING
FEBRUARY 13, 2003

Board Members Present: Richard White, Chairman, Judy Lever, Vice-Chair, Dianne Nielson, John Newman, Joe Melling, Craig Anderson, Cullen Battle, Lowell Peterson, Bill Doucette, Scott Widmer, Ken Alkema,

Staff Members Present: Dennis R. Downs, Executive Secretary; Brad T. Johnson; Acting UST Executive Secretary; Marilyn Ratcliffe; Candace Bleazard; Arlene Lovato; Ralph Bohn; Cheryl Prawl; Patrick Sheehan; Scott Anderson; Brad Maulding; Otis Willoughby; John Waldrup; Rusty Lundberg; Don Verbica; Rick Page; Patrick Sheehan; David Wheeler.

Others Present: Rex Funk, Tim Orton, Monte Caldwell, Dan Shrum, Laura Lockhart, Clint Warby, David Woodworth, Mike Keene, Tom Kurkky, Mark Williams, Dave Spence, Don Fanning, Hal Jan, Craig Galli, Susan Jew, Sheila Vanle.

- I. The meeting was called to order at 1:04 P.M.
- II. It was motioned by Joe Melling and seconded by Bill Doucette, and unanimously carried that the minutes for January 9, 2003 be approved.
- III. Underground Storage Tank Update – Brad T Johnson

Underground Storage Tanks (UST) General Statistics:

PROGRAM	December	January	Difference from December
Number of current tanks with a Certificate of Compliance	4,014	4,007	(7)
Number of Tanks with a Certificate of Compliance on the PST Fund	3,582	3,575	(7)
Total Number of Tanks Regulated	4,183	4,180	(3)
*Total Number of LUST sites closed to date	3,510	3,532	22
Total PST sites with claims or expected claims	459	462	3
Open + Closed Grand Total	\$86,313,837.89	\$86,764,768.18	(\$450,930.29)
PST Fund Balance	(\$67,702,221.00)	(\$68,597,888.00)	(\$895,667.00)
PST Assets Total	\$14,462,021.37	\$13,821,289.40	(640,731.97)
Loan Fund – Total Loans Made to Date*	67	67	0
Total Amount Loaned to Date	\$1,822,642.60	\$1,822,642.60	0

*One application has been received for the Low Interest Loan Program. (It has gone through a loan eligibility review, and the loan application is being processed.)

The proposed changes to UAC R311-207 as revised, became effective February 4, 2003.

The next Underground Storage Tank Advisory Task Force Meeting is scheduled for March 20, 2003 at UDEQ, Bldg. #2, at 10:00 a.m., in Room 101.

There are three legislative bills that may affect the Division of Environmental Response and Remediation: 1) Senate Bill 35 deals with the Redevelopment of Superfund Sites. This act modifies the Redevelopment Agencies Act and expands the criteria for blight to include a superfund site. The act also makes an exception to a size restriction on project areas for the case of a superfund site; 2) Senate Bill 84 deals with Real Property Voluntary Environmental Restrictive Covenants. This act modifies the Environmental Quality Code by creating a new chapter, "Environmental Institutional Control Act." The act also allows for creation of environmental institutional controls which limit or otherwise affect the use of real property which has been affected by a cleanup or risk assessment. Also, the act includes procedures for establishment and enforcement of the institutional controls, removal of the controls, and appeal of the Executive Director's decision regarding the controls; and, 3) Senate Bill 85 deals with the Underground Storage Tank Amendment. This act modifies the Underground Storage Tank Act by increasing the environmental assurance fee of 1/4¢ per gallon on the first sale or use of petroleum products to 1/2¢ per gallon. The act also provides for a reduction of the fee when the cash balance in the Petroleum Storage Tank Trust Fund exceeds \$20,000,000 in any given year. The act has a July 1, 2003 effective date.

IV. Solid Waste Permitting Update - Ralph Bohn

The Solid Waste Program has received two permit applications for new landfills within the past year: Solitude, which is just outside of Green River; and Promontory Point.

- Solitude is just outside of Green River. The public comment period ended December 1, 2002. Public comments were received and are presently being evaluated.
- Promontory Point has submitted an initial application, and the review process is in the early stages.

V. Planning/Used Oil - Cheryl Prawl

A. Proposed Stipulation and Consent Agreement between the Board and Tri-State Recycling Services, Inc.

To resolve their Notice of Violation, Tri-State has entered into an agreement with the Board. A total penalty of \$16,840 was negotiated. Of this amount, Tri-State will pay a cash penalty of \$4,840, and with the remaining balance of \$12,000 they will perform a Supplemental Environmental Project equivalent to \$24,000 in monetary value.

A 30-day public comment period on the proposed SCO commenced on January 6, 2003 and concluded on February 4, 2003. No comments were received.

****It was moved by Scott Widmer and seconded by Judy Lever that the Proposed Stipulation and Consent Agreement between the Board and Tri-State be approved.**

B. Proposed Stipulation and Consent Agreement between the Board and Thermo Fluids, Inc.

In resolution of Notice of Violation and Compliance Order #0207011 given to Thermo Fluids, Inc., the Division of Solid and Hazardous Waste has negotiated a penalty of \$4,8000.

A 30-day public comment period on the proposed SCO commenced on December 27, 2002 and concluded on January 30, 2003. No comments were received .

****It was moved by Joe Melling and seconded by Bill Doucette, and unanimously carried that this Stipulation and Consent Agreement be approved.**

VI. Stipulation and consent Agreement between the Board and Ensign-Bickford - Brad Maulding

Ensign-Bickford and the Executive Secretary negotiated a Stipulated Consent Agreement to resolve the Notice of Violation issued on October 7, 2002. The alleged violations were documented during inspections conducted by the Division on July 29 - 30, and August 22, 2002. The SCO includes a total penalty amount of \$8,500.

The public comment period commenced on January 9, 2003, and will conclude on February 7, 2003.

Cullen Battle claimed a conflict of interest and informed the Board that he would not be participating in the Board vote.

****It was moved by John Newman and seconded by Craig Anderson, and majority ruled that the Stipulation and Consent Agreement between the Board and Ensign-Bickford be approved.**

B. Open Burn/Open Detonation permit - Brad Maulding

Mr. Maulding was pleased to announce to the Board that the first Open Burning/Open Detonation Permit in the State of Utah has been approved. It was issued to the Utah Test and Training Range (UTTR). This is an Air Force Facility which supports Hill Air Force Base for practice bombing and taking care of waste munitions. This permit will provide conditions for operating an open detonation facility dealing primarily with solid type wastes.

VII. Stipulation and Consent Agreement between the Board and the Division of Facilities Construction and Management to remediate a shooting range at the Fred House Academy - Allan Moore

A Stipulation and Consent Agreement has been negotiated with the Division of Facilities Construction and Management for voluntary remediation of a firing range located behind the Fred House Academy in Draper. The agreement calls for remedial action plans to be submitted to the Division, which will address soil clean-up standards, stabilization plan, disposal plan and a sampling plan for confirmation of cleanup standards.

The public comment period commenced on January 17, 2003 and concluded on February 13, 2003.

**** It was moved by Bill Doucette and seconded by Lowell Peterson, and unanimously carried that the Stipulation and Consent Agreement between the Board and the Division of Facilities Construction and Management be approved.**

VIII. Commercial/Federal Facilities - Don Verbica/Rick Page

A. Variance request for Tooele Army Depot

This variance seeks authorization to exceed the quantity limitations for a treatability study specified in R315-2-4(f). This rule allows for treatability studies up to 250 kilograms per day. The test that the Tooele Army Depot is requesting to perform requires about 4,000 lbs. a day. This is a temporary test and will be performed to evaluate the performance of two different cyclones while burning conventional small arms ammunition. The data collected will be used to make improvements to the deactivation furnaces, which have been installed worldwide.

A public notice to receive public input on the variance request commenced on December 10, 2002 and concluded on January 17, 2003. Also, a public hearing was held on January 14, 2003 to receive comments. No comments were received.

****It was moved by Scott Widmer and seconded by Cullen Battle, and unanimously carried that this variance request be approved.**

B. Variance request for Envirocare - Don Verbica/George Lukes

Ken Alkema declared a conflict of interest and informed the Board that he would not participate in any of the discussion or voting process concerning this issue.

Envirocare is looking at a new technology that they are proposing to use at their facility. The tests will be performed to evaluate a technology called vacuum assisted thermal desorption (VATD). The data collected will be used to determine if the technology is a viable treatment method. Waste that has high organics will be placed inside, heated up, and the organics will be driven off the waste and collected through filters and condensers. After this process, the organics would become a separate waste stream that would need to be managed. The waste left in the unit would then be LDR for the organics and be regulated under the land disposal restrictions for the organic material. Metals would be treated further and then disposed of on-site. The organics would then be shipped off-site for further treatment.

Since this is a new technology, and the unit will be brought in and installed there, Envirocare has requested to do a treatability study to determine if it will treat the waste that they want to use in unit four. The unit can treat up to four drums at a time. In order to make sure that this unit can effectively treat the four drums, a variance from the quantity limit restrictions is needed.

Once the treatability study is completed, verification can be made to make sure the unit is working as it should.

The public comment period will end on February 27, 2003.

The information from the treatability study and the demonstration testing will be utilized to insure that the radiologic components stay with the soils, and they also want to make sure that the off gases do not present things they are not expecting. After that, they will go back into the actual permitting part where they are doing tests to generate data that will show what the permitting conditions will be.

Dan Shrum, compliance and permitting manager at Envirocare, was in the audience and wanted to approach the Board with an issue. He told the Board that as part of the variance request, he also wanted to request an emergency Board meeting to be held for a vote. This would need to occur after the public comment period has ended, and the Division of Solid and Hazardous Waste personnel have had time to respond to the public participation comments. Mr. Shrum felt this request necessary in order to meet commitments made to their client, which is that this part of testing be completed by the end of February.

The Board agreed to hold a teleconference on March 6, 2003 at 2:30 p.m. Notification of this meeting will be made to the public 24 days in advance. It will be held in room 406 of the Cannon Health Building, 288 N. 1460 W., SLC, Utah. If there are issues that come up, making it necessary for the Board to meet in body, this issue will be noticed and scheduled for the March 13, 2003 Board meeting.

Scott Widmer asked if the public participation documents and the replies to the comments could be faxed to the Board members prior to the teleconference so that they have the information in front of them for the vote.

VIII. Chemical Demilitarization Issues - Marty Gray

- The Army is expecting an approval, within the week to start up VX incineration. This will come from the Army Safety Team that completed the investigation and reviewed all of the corrective actions that have been taken.

There are still two unresolved issues that the Division has, which should be resolved fairly quickly.

- CAMDS is undergoing a sampling program for the mustard munitions at their facility. Division staff members are watching CAMDS take mustard samples of over 80 ton containers, for characterization purposes.
- Division staff expects that within a month they will receive a permit modification request from Dugway Proving Ground to allow them to conduct Open Burning/Open Detonation.

Roger Rasmussen was in the audience and informed the Board that there is heightened security going on behind the scenes at Deseret Chemical Depot. There are quite a large number of troops there and security measures have been upgraded. If there is a war, this facility will essentially shut down for a period of time. They will then send all the non-essential personnel home, which would be the vast majority of people who work there. During that time frame while the base is shut down, intelligence sources will keep informed and slowly bring the operations back on line.

IX. Other

A. DEQ Budget and legislative issues - Dianne Nielson

The Department has already lost over a million dollars from the general fund over the current year budget as a result of last years Legislative Session of 2002. The budget for 2004 beginning July 1, 2003 is the base budget for 2003. There is a contingency in place that would provide an additional 2% general fund reduction, depending on how revenues come in through the remainder of this year. The Legislature will get a projection on that Saturday, February 15, 2003. If those reductions are taken, there will be another \$250,000.00 in General Funds of the Department.

The cut that has been proposed is to close eleven air monitoring stations that are not required for compliance information and tracking, in terms of national air quality standards in maintenance areas, but it does include the proposed work that Air Quality was performing in Cache County as well as the St. George area.

DEQ has received permission for two supplementals to the current year budget, which are non-general fund. One expands the appropriation that can be made to the voluntary clean-up program, which is under the Division of Environmental Response and Remediation (DERR). This is the program that allows a landowner to bring in a plan to remediate their property. They pay for the review of the plan, and if it is approved, DERR will track their performance in completing the plan. If it is completed properly, they receive a certificate that the property is clean. Only money that is appropriated can be spent, consequently, the cap needs to be raised to enable accommodation of the many applications received.

Also, the DEQ has identified shortfalls of the Environmental Quality restricted account. These are the commercial solid and hazardous and radioactive waste fees that fund the regulatory program in the Division of Solid and Hazardous Waste (DSHW). This account is as much as two million dollars short in revenue, depending on what happens with revenue streams.

DEQ has identified at least one million dollars that can be redirected back into the DEQ restricted account. Of that, \$400,000.00 was originally appropriated for hazardous substance mitigation, to clean up sites, to be a 10% match for the superfund, and to be used for emergency response for particular situations. That money is being pulled back and put back to where it was initially taken out of the DEQ account. The legislature has approved this.

DEQ has not requested an appropriation this year for high-level nuclear waste opposition. No one should read that in anyway as being an indication that DEQ does not need the money or that the fight is over. It looks to be possible to forego an appropriation this year and then re-evaluate the account again in 2004, based on the need for funds in the account. So there will be about \$400,000.00 come back from that account. There is \$200,000.00 that would normally be appropriated to the Department of Public Safety for emergency management work. The Legislature has agreed not to make that appropriation this year.

DEQ is still concerned about this fund and a potential shortfall. Also, there is still a possibility of more reductions until close of the Legislative session.

As part of the initial reductions during the 2002 fiscal year, there is 1/2 of an FTE position that is presently not being filled within the DSHW. They had previously given up general funding that was associated with the Used Oil Program. Also, presently, the Department is not making any new hires until it is determined how the budget picture turns out during this session.

B. HB 286 Radioactive and Hazardous Waste Tax and Fee Amendments

House bill 286, sponsored by Representative David Ure, is still in the drafting stages. There is some effort being made to put a tax, not to be confused with a fee, on some solid and hazardous waste and radioactive waste activities going on within the State. DEQ is waiting to see how it looks in the end.

C. SB 146

SB 146, sponsored by Senator Bill Wright, is currently in the Rules Committee. This bill removes an exemption on certain commercial non-hazardous solid waste disposal facilities, i.e., municipal landfills that are commercial. There is an exemption in the statute, which would allow these kinds of facilities to be classified as non-commercial, therefore, not subject to State fees, if they were solely under contract to a local government to provide solid waste management services. Senator Wright's bill removed that exemption so that if the bill goes forward as it is currently proposed, and if they are a privately owned landfill, they would be subject to the fees within the statute.

There is also some adjustment of fees associated with construction and demolition debris. A few years ago, the Legislature removed the fee that was assessed on demolition debris that went to facilities that only accepted that kind of waste. Senator Wright's bill would do away with that exemption and place a fee of .50 a ton on construction debris waste.

To date this bill has not had a public hearing in the Committee and will be closely followed.

Lowell Peterson asked if this bill essentially grandfathers two facilities that have already applied for a permit. There is one in Green River and one at Promontory. Mr. Downs explained that there is a window there which says, if someone already had their application in for a solid and hazardous waste landfill under contract to local government during the last year, those facilities would be subject to the fees associated with the bill, but would not be subject to legislative approval.

It was Mr. Downs understanding that Senator Wright's reasoning was to insert a fairness issue that these facilities were moving along under one scenario, and then suddenly the rules are being changed. Presently, it only impacts two proposed facilities, Solitude Landfill, near Green River, and the other being the Promontory Point Landfill, in Box Elder County.

X. The next regularly held Board meeting will be held March 13, 2003 at 1:00 p.m. in the DEQ Building #2 Conference room #101. There will also be an interim meeting on March 6, 2003 at 2:30 p.m. in room 406 of the Martha Hughes Cannon Health Building, located at 288 N. 1460 W. Board members may access the March 6, 2003 meeting via telephone. Detailed information will be sent to the Board.

